

IN THE MATTER between **NORTHERN PROPERTY LIMITED PARTNERSHIP**,
Applicant, and **DWAYNE SEMPLE**, Respondent;

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter
R-5 (the "Act");

AND IN THE MATTER of a Hearing before, **HAL LOGSDON**, Rental Officer,
regarding the rental premises at **YELLOWKNIFE, NT**.

BETWEEN:

NORTHERN PROPERTY LIMITED PARTNERSHIP

Applicant/Landlord

- and -

DWAYNE SEMPLE

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondent shall pay the applicant rent arrears in the amount of two thousand six hundred twenty dollars and seventy three cents (\$2620.73).
2. Pursuant to sections 41(4)(c) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as Apartment 106, 5720 50th Avenue, Yellowknife, NT shall be terminated on November 15, 2009 and the respondent shall vacate the premises on that date, unless the rent arrears and the November, 2009 rent in the total amount of three thousand eight hundred thirty five dollars and seventy three cents (\$3835.73) are paid in full.

3. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondent shall pay future rent on time.

DATED at the City of Yellowknife, in the Northwest Territories this 28th day of October, 2009.

Hal Logsdon
Rental Officer

IN THE MATTER between **NORTHERN PROPERTY LIMITED PARTNERSHIP**,
Applicant, and **DWAYNE SEMPLE**, Respondent.

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter
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AND IN THE MATTER of a Hearing before **Hal Logsdon**, Rental Officer.

BETWEEN:

NORTHERN PROPERTY LIMITED PARTNERSHIP

Applicant/Landlord

-and-

DWAYNE SEMPLE

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: **October 28, 2009**

Place of the Hearing: **Yellowknife, NT**

Appearances at Hearing: **Sylvia Siemens, representing the applicant**

Date of Decision: **October 28, 2009**

REASONS FOR DECISION

This matter was originally scheduled to be heard on October 7, 2009. Because there was no confirmation of service of the Notice of Attendance the matter was not heard on that date. The matter was rescheduled for October 28, 2009 and arrangements made to have the respondent personally served with the Notice of Attendance. The respondent contacted the rental officer on October 13, 2009 to inquire about the matter and was given the time and location of the planned October 28 hearing. He was also informed that a Notice of Attendance would be personally served on him. He confirmed that the service address on the application was correct. The rental officer contacted the respondent again on the morning of October 28, 2009 and reminded him of the hearing time, date and location. The respondent stated that he would be at the hearing. The respondent did not attend the hearing and the matter was heard in his absence. Although the Notice of Attendance was not successfully served on the respondent, I am confident that he was aware of the hearing date, time and location and had every opportunity to attend.

The applicant alleged that the respondent had breached the tenancy agreement by failing to pay rent and sought an order requiring the respondent to pay the alleged rent arrears and terminating the tenancy agreement unless the rent arrears and the November, 2009 rent were paid on or before November 15, 2009.

The applicant provided a statement of the rent account in evidence which indicated a balance of rent owing in the amount of \$2650. Included in that amount was a charge for \$31 indicated as

“other late fees”. The applicant was not certain how these late fees were determined. The applicant stated that the security deposit had been paid in full. The monthly rent for the premises is \$1215.

Section 41 of the *Residential Tenancies Act* permits a landlord to charge a penalty for late rent.

- 41.(1) A tenant shall pay to the landlord the rent lawfully required by the tenancy agreement on the dates specified by the tenancy agreement.**
- (2) A tenant who pays his or her rent later than the dates specified by the tenancy agreement is liable to a penalty.**
- (3) The penalty referred to in subsection (2) is calculated for each day that the rent is late by multiplying**
- (a) the rent due,**
- by**
- (b) the bank deposit rate on deposit receipts for 30 days, as determined and published by the Bank of Canada in the periodic publication entitled the *Bank of Canada Review*, in effect on January 1 in the year that the late payment is calculated,**
- and the total is divided by 365.**

The interest rate for 2007, the year in which the penalty was applied, was 4.33%. Applying that provision I find the applicable penalty to be \$1.73, not \$31.

I find the respondent in breach of his obligation to pay rent and find the rent arrears to be \$2620.73 calculated as follows:

Balance as per statement	\$2650.00
Less penalty applied	(31.00)
Plus allowable penalty	<u>1.73</u>
Rent arrears	\$2620.73

In my opinion, there are sufficient grounds to terminate the tenancy agreement unless the rent arrears are promptly paid. An order shall issue requiring the respondent to pay the applicant rent arrears of \$2620.73 and terminating the tenancy agreement on November 15, 2009 unless those arrears and the November, 2009 rent are paid in full. I calculate that amount to be \$3835.73 as follows:

Rent arrears	\$2620.73
November/09 rent	<u>1215.00</u>
Total	\$3835.73

If the tenancy agreement continues, the respondent is also ordered to pay future rent on time.

Hal Logsdon
Rental Officer